McKinley, 24 Ia. 69. Others have said that the vendee's notice of the easement is enough to exclude it from the covenant. *Desvergers* v. *Willis*, 56 Ga. 515. And others hold that the open and public way in which the easement is evidenced places a duty upon the vendee to take notice. *Patterson* v. *Arthurs*, 9 Watts (Pa.) 152.

DAMAGES — EXCESSIVE DAMAGES — LATITUDE ALLOWED TO "NOMINAL DAMAGES." — In an action for failure to transmit a telegram, the court restricted the plaintiff to the recovery of nominal damages. The jury returned a verdict for $250. The defendant moved for a new trial on the ground that the amount was excessive. *Held*, that the motion be denied. *Western Union Telegraph Co.* v. *Glenn*, 68 S. E. 881 (Ga., Ct. App.).

In this case, though accepting the definition that nominal damages are a trivial sum, the court adopts the reasoning of an earlier Georgia decision, that the term is purely relative, depending "upon the vastness of the amount involved." *Sellers* v. *Mann*, 113 Ga. 643. Properly speaking the only sum involved is that which the plaintiff can recover, which in this case is nominal damages, and so the court's theory reduces itself to an absurdity. If, however, the theory is that the term is relative to the amount claimed, it is equally unsound. That the amount of the claim bears no relation to the damages is shown by two types of cases. The plaintiff may recover nominal damages where no actual damage has occurred to give rise to any claim. *Grau* v. *Grau*, 37 Ind. App. 635. And where not only no damage is claimed, but the plaintiff has benefited by the wrong, exactly the same recovery is had. *Excelsior Needle Co.* v. *Smith*, 61 Conn. 56. It makes no difference whether the plaintiff claims much or little, if his right to damages rests only on a technical cause of action.

EXEMPTIONS — MORTGAGE OF FUTURE EXEMPT GOODS. — A, a resident of Michigan, assigned as security to B all his goods which were then or might be thereafter exempt from levy and sale on execution, and authorized B to demand and select the same. *Held*, that B's claim should be allowed against A's assignee in bankruptcy. *In re Hastings*, 24 Am. B. Rep. 360 (C. C. A., 6th Circ.).

The true policy of the exemption laws would seem to forbid an assignment of a right so personal in its nature. A few cases sustain this principle. *Howland* v. *Fuller*, 8 Minn. 50; *Lane* v. *Richardson*, 104 N. C. 642. On principle, too, the mortgaging of after-acquired property should not give a right good against third parties. See 19 HARV. L. REV. 557. But the court in the principal case was bound on these points by the decisions of the Michigan courts. *Wilson* v. *Perrin*, 62 Fed. 629. By those decisions a mortgagee of exempt property is entitled to it as against creditors. *Buckley* v. *Wheeler*, 52 Mich. 1. And the law of Michigan recognizes the validity of chattel mortgages comprising after-acquired property. *Louden* v. *Vinton*, 108 Mich. 313. These propositions, however, do not necessarily involve the conclusion drawn from them by the court, — that a mortgage is valid which comprises all the exempt property which the mortgagor may acquire in future. Such an extension of a principle of dubious expediency might well have been avoided on grounds of policy similar to those which render ineffectual an assignment of wages to be earned under a contract not yet made. *Herbert* v. *Bronson*, 125 Mass. 475.

HIGHWAYS — REGULATION AND USE — MOVING A HOUSE. — The defendant procured a license from a municipality to move a house through the streets. The plaintiff operated a street railway under a franchise giving it the right to maintain poles and wires. The defendant in moving would interfere with the plaintiff's wires. The plaintiff asked for an injunction restraining the defend-

ant from such interference. *Held*, that no injunction should be granted. *Western N. Y. & P. T. Co.* v. *Stillman*, 68 N. Y. Misc. 456.

Recognizing the fact that moving a house differs only in degree from moving anything else, a reasonable use of the highway for such purpose has generally been held to be lawful. *Graves* v. *Shattuck*, 35 N. H. 257. *Contra, Dickson* v. *Kewanee Elec. Light Co.*, 53 Ill. App. 379. It is usual for cities to require a license for the moving of a building. This does not take away the common-law right; it restricts it to those who have satisfied the authorities that their exercise of it will not create a public nuisance. *Hinman* v. *Clarke*, 121 N. Y. App. Div. 105. A street railway franchise does not give an exclusive right to use the streets or any part of them; the company must share them with the public. *Market St. Ry. Co.* v. *Central Ry. Co.*, 51 Cal. 583. It follows that the company, like the public, is subject to occasional reasonable interference with its enjoyment of the streets. As the defendant in the principal case proposed to exercise his right in a way which would not work irreparable harm to the plaintiff, and as the plaintiff's right by franchise was not superior to the defendant's common-law right, the suit of the plaintiff was rightly denied.

INJUNCTIONS — ACTS RESTRAINED — PAYMENT OF SALARY TO ONE ILLEGALLY APPOINTED TO OFFICE. — The defendant was illegally appointed judge by a city council. The plaintiff, a taxpayer, joining the city council as co-defendant, prayed for an injunction restraining the payment of salary to the defendant. *Held*, that the injunction be granted. *Forman* v. *Bostwick*, 139 N. Y. App. Div. 333.

A court of equity has no jurisdiction to determine a question of title to office, since there is an adequate remedy by *quo warranto* proceedings. If there is an independent ground of equity jurisdiction, however, the court will determine the whole matter in issue, even if a question of title is incidentally involved. *Cf. Johnston* v. *Jones*, 23 N. J. Eq. 216. One recognized head of equity jurisdiction is the prevention, at the suit of a taxpayer, of an illegal waste of public moneys. *Merrill* v. *Plainfield*, 45 N. H. 126. But the principal case cannot be supported on that ground. *Burgess* v. *Davis*, 138 Ill. 578. Even where there is a rightful claimant who has been kept out of office by the *de facto* officer, he cannot recover from the city the salary which has been paid under mistake to the actual incumbent. *Coughlin* v. *McElroy*, 74 Conn. 397. Hence there is no waste of public money. The court in the principal case lays emphasis on the fact that no question of fact is in dispute, to go to a jury; but that in itself is of course not enough to give equity jurisdiction.

INNKEEPERS — DUTIES TO TRAVELERS AND GUESTS — WHETHER BAD REPUTATION IS AN EXCUSE FOR REFUSING ENTERTAINMENT. — The plaintiff, a noted professional prize-fighter, was refused accommodations by the defendants, the proprietors of a hotel. The judge charged the jury that it was for them to say whether such a violator of the criminal laws was a reputable person entitled to be admitted to a hotel. *Held*, that the charge was correct. *Nelson* v. *Boldt*, 180 Fed. 779 (Circ. Ct., E. D. Pa.).

For centuries the innkeeper has had a *primâ facie* duty to all travelers to furnish for reward such accommodations as he has. See *Anon.*, Keilw. 50; *Rex* v. *Collins*, Palm. 373. But certain circumstances afford him a justification for refusing entertainment. The same policy which imposes the duty requires him to exclude those whose conduct would render them dangerous to the personal security and comfort of his guests. *Goodenow* v. *Travis*, 3 Johns. (N. Y.) 427. See *Markham* v. *Brown*, 8 N. H. 523; *Queen* v. *Rymer*, 2 Q. B. D. 136. Where one seeks accommodations to engage in an act illegal or *contra bonos mores*, it is of course the innkeeper's duty to refuse him admission. *Curtis* v. *Murphy*, 63 Wis. 4. *Cf. Thurston* v. *Union Pacific R. Co.*, 4 Dill. (U. S.)